

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

<b>VALERIE ANNETTE BARTEE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-19-371-JFH-SPS</b>
	)	
<b>ANDREW M. SAUL,</b>	)	
<b>Commissioner of the Social</b>	)	
<b>Security Administration,</b>	)	
	)	
<b>Defendant.</b>	)	

**REPORT AND RECOMMENDATION**

The Plaintiff was the prevailing party in this appeal of the Commissioner of the Social Security Administration’s decision denying benefits under the Social Security Act. She seeks attorney’s fees in the amount of \$4,478.20, under the Equal Access to Justice Act (the “EAJA”), 28 U.S.C. § 2412, as well as \$400.00 in costs. *See* Docket Nos. 23-24. The Court has referred the motions to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(C). *See* Docket No. 22. The Government has not responded and the response time has expired. For the reasons set forth below, the undersigned Magistrate Judge recommends that the Plaintiff be awarded the requested fees and costs under the EAJA.

Upon review of the record herein, the Court finds that the amounts are reasonable and that the Commissioner should be ordered to pay them to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) (“Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and

other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort)[.]""); *see also Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) ("The EAJA therefore permits attorney's fees reimbursement to financially eligible prevailing parties, who make a proper application, and not to their attorneys.").

Accordingly, the undersigned Magistrate Judge hereby PROPOSES the findings set forth above and RECOMMENDS that Plaintiff's Application for Award of Attorney's Fees Under the Equal Access to Justice Act [Docket No. 23] and Application for Reimbursement of Cost and/or Expenses Under the Equal Access to Justice Act and 28 U.S.C. § 1920 [Docket No. 24] be GRANTED, and that the Court award attorney's fees in the amount of \$4,478.20 and costs in the amount of \$400.00 as the prevailing party herein. The undersigned Magistrate Judge notes that if the Plaintiff's attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986). Any objection to this Report and Recommendation must be filed within fourteen days. *See* Federal R. Civ. P. 72(b)(2).

**IT IS SO ORDERED** this 28th day of June, 2021.



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**STEVEN P. SHREDER**  
**UNITED STATES MAGISTRATE JUDGE**